

No. 5:98-CR-85-3-BO

Respondent.

ORDER

BACKGROUND

DISCUSSION

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(E.D.Va. 2010). In *Mitchell*, the court denied a similar request of a defendant who had been convicted of bank fraud. *Id.* at 428. In its reasoning, the Court noted that federal courts are courts of limited jurisdiction with specific jurisdictional requirements and limitations. *Id.* (citations omitted.). Where a court does not have jurisdiction over a matter, it may not rule on the merits of a case. *Id.* (citations omitted). The only exception is if a court has ancillary jurisdiction. The Supreme has held federal courts have ancillary jurisdiction in only two situations: (i) “to permit disposition by a single court of claims that are, in varying respects and degrees, factually interdependent”; and (ii) “to enable a court to function successfully, that is, to manage its proceedings, vindicate its authority and effectuate its decrees.” *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 379-80 (1994). The Court does not have jurisdiction under 18 U.S.C. §§ 2113(a)(d) and 2 because the act of entering judgment of conviction in defendant's criminal case divests a district court of original jurisdiction over his case. *Mitchell*, 683 F.Supp.2d at 432.


In this case, ancillary jurisdiction is not proper because there is no factual interdependency between the claim over which this Court had jurisdiction, namely defendant's criminal conviction, and defendant's ancillary claim to expunge his record. *Id.* at 433. See *United States v. Coloian*, 480 F.3d 47, 52 (1st Cir. 2007). “The facts relating to defendant's conviction are wholly separate and distinct from the equitable circumstances that defendant contends justify the expungement of his criminal conviction for bank fraud.” *Id.* Expungement of Defendant's criminal record also would not facilitate the functioning of the federal court, “that is to manage its proceedings, vindicate its authority, and effectuate its decrees.” *Kokkonen*, 511 U.S. at 380. Therefore, this Court is without authority to expunge Petitioner's criminal record. Petitioner's motion is DENIED.

CONCLUSION

For the reasons above, Petitioner's Motion to Expunge is DENIED.

SO ORDERED.

This 1 day of August, 2010.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE